



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

May 29, 1990
AO-90-19

Thomas F. Markham, III
57 Morrison Road West
Wakefield, MA 01880

Dear Mr. Markham:

This letter is in response to your request for an advisory opinion.

You state that you are employed by the Massachusetts Water Resources Authority as the Intergovernmental Affairs Assistant. You plan to be a candidate for office of state representative. You plan to take a leave of at least four months before the primary election.

You have inquired whether you are subject to the provisions of section 13 of M.G.L. c.55.

Section 13 of M.G.L. c.55 states, in part:

No person employed for compensation, other than an elected officer, by the commonwealth . . . shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office . . . The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth . . . shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility.

No provision of M.G.L. c.55, including section 13, mandates that a public employee relinquish his or her employment with the commonwealth in order to seek elected office. You may not, however, solicit contributions directly or indirectly, in person or in writing, while so employed. If you were to take an unpaid leave of absence of at least six months before the general election (or at least four months before the primary election, if any), you would not be considered "employed for compensation" by this office and therefore not subject to the prohibitions of section 13 of M.G.L. c.55. In order for such unpaid leave of absence to qualify as described in the previous sentence, it could not include any vacation, compensatory or sick time to which you may be entitled.

Therefore, it is the opinion of this office that the unpaid leave of absence you plan to take from your employment with the Massachusetts Water Resources Authority is sufficient to remove you from the prohibitions of section 13 of M.G.L. c.55 because it is a leave of at least four months before the primary election. You may also establish a political committee to solicit and receive contributions on your behalf.

You should also be aware of the following provisions of the campaign finance law:

Section 14 of M.G.L. c.55 states: "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen."

Section 15 of M.G.L. c.55 states:

No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

Section 15 would preclude you from accepting any monies or checks directly from a contributor who is also a public employee or incumbent office holder. This category would include other Massachusetts Water Resources Authority employees as well as other employees of the Commonwealth, or of any county, city or town. Your committee could, however, accept contributions from such persons on your behalf.

Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation

to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

I have included a copy of a brochure for public employees for your information. Please do not hesitate to contact this office should you have additional questions.

Very truly yours,



Mary F. McTigue
Director

enclosure
MFM/wp